Mutual consent and competency are the requisites of a valid marriage. MICH. COMP. LAWS, 1897, § 8589. This statute is declaratory of the common law. If both parties are innocent, there is a presumption that a marriage, void because of the incompetency of either party, becomes a lawful marriage on the removal of the impediment. *De Thoren* v. *Attorney-General*, 1 App. Cas. 686. Consent is inferred from the relation; but by the weight of authority, when one or both are guilty, apparent consent will not suffice, but there must be evidence of a real matrimonial intent. *Gall* v. *Gall*, 114 N. Y. 109; *Cartwright* v. *McGown*, 121 Ill. 388. *Contra*, *Barker* v. *Valentine*, 125 Mich. 336. In the principal case, A's intent at the outset was to deceive B, — to live with her with the appearance of being married. To infer a change of intent because of B's death in 1903, a fact unknown to A, seems illogical. *Collins* v. *Voorhees*, 47 N. J. Eq. 315 and 555. A therefore had no real matrimonial intent, or else it existed concurrently with the intent to deceive B. The former view seems more reasonable. There is authority for reaching the result of the principal case by applying the doctrine of estoppel. *In re Wells' Estate*, 123 N. Y. App. Div. 79; *Chamberlain* v. *Chamberlain*, 68 N. J. Eq. 414. A and his heirs, who are in privity with him, should be estopped to deny his consent, the estoppel becoming operative when he became capable of giving consent.

PROXIMATE CAUSE — EFFICIENT CAUSE OF INJURY — NERVOUS SHOCK FROM FRIGHT CAUSED BY NEGLIGENCE. — The plaintiff averred that the defendant's cow was being driven along a street by the defendant's servant, who set a dog on the cow, causing her to rush into a house, whereby the plaintiff, who was in the house, sustained a severe nervous shock, resulting in serious physical injury. The defendant demurred. *Held*, that the action lies. *Gilligan* v. *Robb*, 47 Sc. L. Rep. 733.

This case establishes in Scotland the right of recovery for physical hurt resulting from fright caused by negligence, where there is no impact on the person. For a discussion of the principles involved, see 7 HARV. L. REV. 304; 10 *id.* 239; 15 *id.* 304.

PUBLIC OFFICERS — ELIGIBILITY TO OFFICE — WOMAN ELECTED COUNTY TREASURER. — A woman was elected county treasurer. The state constitution limited suffrage to males, but had no provision as to eligibility for office on account of sex. *Held*, that she is entitled to the office. *State ex rel. Jordan* v. *Quible*, 86 Neb. 417. See NOTES, p. 139.

PUBLIC SERVICE COMPANIES — RIGHTS AND DUTIES — TELEPHONE CONNECTIONS WITH OTHER LINES. — The X Company operated a telephone line connecting cities A and B. The Y Company operated a telephone line connecting cities B, C, and D. These companies professed to make direct connections for the public between A and C. *Held*, that they had no public duty to afford the means of telephonic communication between A and D. *Albany Telephone Co.* v. *Terry*, 127 S. W. 567 (Tex., Ct. Civ. App.).

For a discussion of the principles involved, see 23 HARV. L. REV. 54.

QUASI-CONTRACTS — RIGHTS AND OBLIGATIONS OF PARTIES UNDER CONTRACTS — CONTRACT MADE UNENFORCEABLE BY A RULE OF EVIDENCE. — The plaintiff entered into an oral contract with H, whereby in return for services to be rendered he was to receive one-fourth of such profits as H might make in a sale of certain stock. The plaintiff performed the services, and brought suit on the express contract. H died, and the plaintiff thereupon became unable to testify in the case. He moved to amend the complaint so as to permit a recovery in *quantum meruit*. *Held*, that the motion must be denied,

since the plaintiff cannot recover in *quantum meruit*. *Donovan* v. *Harriman*, 124 N. Y. Supp. 194 (Sup. Ct., App. Div.).

The court in this case failed to distinguish between true contract and quasi-contract, the latter being imposed by law irrespective of the intent of the parties in order to effect an equitable result. See *Hertzog* v. *Hertzog*, 29 Pa. St. 465, 468. It is generally held that where services have been rendered under an oral contract within the Statute of Frauds, a recovery may be had therefor in quasi-contract to the extent of the reasonable value of the benefit conferred on the defendant, the obligation admittedly being imposed by law. *Day* v. *New York Central R. Co.*, 51 N. Y. 583. And the fact that the defendant's liability under the express contract is contingent is immaterial. *Cadman* v. *Markle*, 76 Mich. 448. This case is an analogous one, the express contract being unenforceable not because of any inherent fault but by a rule of evidence excluding the plaintiff's testimony. Hence an action of quasi-contract for the value of the services should be allowed, to prevent the unjust enrichment of the estate of the deceased at the plaintiff's expense.

RES JUDICATA — MATTERS CONCLUDED — ISSUES MATERIAL TO THE JUDGMENT. — A former suit between the parties was dismissed on the technical ground that the complaint bore a deficient court-fee stamp, and on the merits. *Held*, that the technical reason was sufficient for the determination of the case, and that the decision on the merits, being unnecessary, has not the force of *res judicata*. *Irawa* v. *Satyappa*, 12 Bombay L. Rep. 766 (Bombay, App. Civ. Ct., Aug. 4, 1910).

In a former suit between all of the essential parties to the present action, the court decided in favor of the plaintiff on a question raised by the pleadings and argued by counsel, but rendered judgment on another ground for the defendant. *Held*, that the decision on the former point, although unnecessary for the disposition of the case, is *res judicata*. *Green* v. *Edwards*, 77 Atl. 188 (R. I.).

When a judgment is based upon two distinct grounds, either of which is sufficient for the determination of the case, it cannot be said of either point that its determination was necessary to the decision. But if both points present issues material to the case, the doctrine of *res judicata* applies to both. *First Nat. Bank of Covington* v. *City of Covington*, 129 Fed. 792. The contrary holding of the first case is well matched by that of the second, which goes to the opposite extreme. Findings on immaterial questions, even though put in issue and directly decided, are, by the great weight of authority, not *res judicata*. *House* v. *Lockwood*, 137 N. Y. 259; *Hardy* v. *Mills*, 35 Wis. 141. Especially should this be the case where the decision on the collateral point is in favor of one party and final judgment is rendered for the other.

RIGHT OF PRIVACY — INFRINGEMENT OF RIGHT — WHAT CONSTITUTES INFRINGEMENT UNDER NEW YORK STATUTE. — A New York statute prohibits the use for advertising purposes or for the purposes of trade, of the name or picture of any person without his written consent. Without such authorization the defendant supplied various moving-picture exchanges with films containing the name and a pictorial representation of the plaintiff. *Held*, that the plaintiff is entitled to an injunction and damages. *Binns* v. *Vitagraph Co. of America*, 67 N. Y. Misc. 327 (Sup. Ct.).

The defendant newspaper, in connection with a biography of the plaintiff, published his picture without his written consent. Under the same statute, a motion for an injunction was made. *Held*, that the motion be denied. *Jeffries* v. *New York Evening Journal Publishing Co.*, 67 N. Y. Misc. 570 (Sup. Ct.).

For references to this statute and to discussions of the right to privacy, see 22 HARV. L. REV. 232.